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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,541	10/10/2003	Pierre Bernard	0529-1018	9717
466	7590	11/15/2005		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER REIMERS, ANNETTE R	
			ART UNIT 3733	PAPER NUMBER

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/682,541

Applicant(s)

BERNARD ET AL.

Examiner

Annette R. Reimers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/09/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Specification*

The specification is objected to because of the following informalities: It lacks the incorporation of the proper headings, e.g. Background of the Invention, Brief Description of the Drawings, etc. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Mellinger et al. (U.S. Patent Number 6,302,888).

Mellinger et al. disclose various embodiments of an immobilization device for a connecting rod, 12, in an osseous anchoring element, 10, comprising retention means, 30, capable of deforming elastically under a pressure force F and a blocking element, 16, comprising lugs, which coact with the retaining means to permit the securement of the blocking element on the osseous anchoring element, a tightening screw, 70,

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permitting the immobilization in rotation and in translation of the connecting rod between the osseous anchoring element and the blocking element (see figures 1, 5 and 6).

The osseous anchoring element has a head, 13, comprising two truncated vertical walls, delimiting a central opening of U shape whose bottom has a part cylindrical profile, each vertical wall is constituted by a central surface bordered laterally and on each side by elastic blades<sup>40</sup>, separated respectively from said central surface by vertical slots wherein the elastic blades comprise a snap-in tooth and a blocking element comprising a seat with a screw-threaded bore opening within the seat, a tightening screw coacting with the screw-threaded bore and lugs which coact respectively with a tooth secured to the elastic blades (see figures 1, 5, 6, and 11).

The head comprises two vertical walls of truncated profile disposed one facing the other and in parallel planes so as to delimit a first central opening of U shape carried by the axis XX' of the connecting rod and whose bottom has a part cylindrical profile, and a second opening perpendicular to the axis XX' and to the first opening (see figure 9 and column 4, lines 15-27). Furthermore, each elastic vertical wall is separated from the bottom of the central opening by a vertical slot giving a certain elasticity to each wall in a YY' direction (see figure 9). In addition,, the two perpendicular openings permit delimiting at each point of the head elastic blades adapted pressure force F. Moreover, the pressure force F applied to the blocking element permits by means of lugs and vertical slots, the lateral deformation of the elastic blades in the direction of the central surface of each wall of the osseous anchoring element (see figures 1, 5, 6 and 9).

The two lugs form teeth comprising hooking portions separated by a vertical seat bordered laterally by ribs, 40 (see figure 9). In addition, the hooking portions are closed opposite the lateral surfaces by means of the corresponding vertical rib (see figures 6 and 9). Furthermore, the hooking portion of each lug is positioned retracted and at a certain distance  $d_l$  from the lateral and opposite surfaces of the blocking element (see figures 6 and 9). Moreover, the distance  $d$  separating the two lugs is less than the distance provided between two teeth a same vertical wall of the osseous anchoring element (see figures 6 and 9).

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Bono et al. (U.S. Patent Number 6,755,829).

Bono et al. disclose various embodiments of an immobilization device for a connecting rod in an osseous anchoring element, 10o, comprising retention means, 153, capable of deforming elastically under a pressure force  $F$  and a blocking element comprising lugs, 164, which coact with the retaining means to permit the securement of the blocking element on the osseous anchoring element, capable of receiving a tightening screw for permitting the immobilization in rotation and in translation of the connecting rod between the osseous anchoring element and the blocking element (see figures 7A-7C).

The osseous anchoring element has a head, 153, comprising two truncated vertical walls, delimiting a central opening of U shape whose bottom has a part cylindrical profile, each vertical wall is constituted by a central surface bordered laterally and on each side by elastic blades, 158, separated respectively from said central

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surface by vertical slots wherein the elastic blades comprise a snap-in tooth and a blocking element comprising a seat with a screw-threaded bore opening within the seat, a tightening screw coacting with the screw-threaded bore (see embodiment of figure 4A for screw thread bore) and lugs which coact respectively with a tooth secured to the elastic blades (see figures 7A-7C).

The head comprises two vertical walls of truncated profile disposed one facing the other and in parallel planes so as to delimit a first central opening of U shape carried by the axis  $XX'$  of the connecting rod and whose bottom has a part cylindrical profile, and a second opening perpendicular to the axis  $XX'$  and to the first opening (see figure 7B). Furthermore, each elastic vertical wall is separated from the bottom of the central opening by a vertical slot giving a certain elasticity to each wall in a  $YY'$  direction (see figure 7B). In addition, the two perpendicular openings permit delimiting at each point of the head elastic blades adapted pressure force  $F$ . Moreover, the pressure force  $F$  applied to the blocking element permits by means of lugs and vertical slots, the lateral deformation of the elastic blades in the direction of the central surface of each wall of the osseous anchoring element (see figures 7A-7C).

The two lugs form teeth comprising hooking portions separated by a vertical seat bordered laterally by ribs, 149 (see figure 7A). In addition, the hooking portions are closed opposite the lateral surfaces by means of the corresponding vertical rib, 146A (see figure 7A). Furthermore, the hooking portion of each lug is positioned retracted and at a certain distance  $d_l$  from the lateral and opposite surfaces of the blocking element (see figures 7A-7C). Moreover, the distance  $d$  separating the two lugs is less

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than the distance provided between two teeth a same vertical wall of the osseous anchoring element (see figure 7A-7C).

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892 for art cited of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Annette R. Reimers whose telephone number is (571) 272-7135. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AR



EDUARDO C. ROBERT  
PRIMARY EXAMINER